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MAY 24 2005

OFFICE OF PETITIONS

In re Application of :
Isao Kudo :
Application No. 09/053,040 :
Filed: April 1, 1998 :
Attorney Docket No. KANHA3111.01 :

This is a decision on the petition, filed May 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the petition was received by the deciding official on May 24, 2005, the date upon which the above-identified application issued as U.S. Patent No. 6,896,186. The petition was filed in the Office of Petitions by facsimile transmission on May 24, 2005.

The inconvenience caused petitioner in this matter is sincerely regretted. However, petitioner's attention is directed to 37 CFR 1.313(d), which states: "A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue.**" Emphasis added.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of the instant application into a patent on May 24, 2005. Accordingly, the RCE and the information disclosure statement (IDS) will be scanned in the file of the above-identified application without further consideration. See 37 CFR 1.97(I). Under the circumstances of this case, no petition or RCE filing fee will be charged to counsel's deposit account.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy